

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



REC'D 15 JUN 2004

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| Applicant's or agent's file reference P47001A | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416) | |
| International application No. PCT/B 03/01392 | International filing date (day/month/year) 10.03.2003 | Priority date (day/month/year) 08.03.2002 |
| International Patent Classification (IPC) or both national classification and IPC A61M16/00 | | |
| Applicant KAERY S.A. et al. | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
 2. This REPORT consists of a total of 4 sheets, including this cover sheet.
- ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of 8 sheets.

3. This report contains indications relating to the following items:
 - ☒ Basis of the opinion
 - ☐ Priority
 - ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☐ Lack of unity of invention
 - ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Certain documents cited
 - ☐ Certain defects in the international application
 - ☐ Certain observations on the international application

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| Date of submission of the demand 06.10.2003 | Date of completion of this report 11.06.2004 |
| Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized Officer Storer, J Telephone No. +49 89 2399-7247  |

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/B 03/01392

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1, 2, 4-24 as originally filed
3, 3a filed with telefax on 25.05.2004

Claims, Numbers

1-23 filed with telefax on 25.05.2004

Drawings, Sheets

1/13-13/13 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/IB 03/01392**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

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|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-23 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 1-23 |
| | No: Claims | |
| Industrial applicability (IA) | Yes: Claims | 1-23 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The invention concerns an apparatus to assist a patient respiration by delivering air through a mask, comprising an air blower wherein the impeller is rotated by an electro motor, for which the closest prior art is US-A1-20020000228.
 - 1.1 The problem addressed by the invention is how to provide an apparatus able to deliver air to a patient at a controlled pressure in such a way that the pressure can be modulated within a breath according to the breath pattern.
 - 1.2 The problem is solved by providing a driving unit which comprises means to sense the back electro motor force generated by the electro motor for changing the sectors' polarity configuration when the back electro motor force reaches the zero value.
 - 1.3 The provision of a driving unit with means to sense the back electro motor force generated by the electro motor for changing the sectors' polarity configuration when the back electro motor force reaches the zero value is not suggested by the available prior art. Therefore, the subject-matter of claim 1 is novel and is considered to be inventive. The industrial applicability of the invention is self-evident, therefore claim 1 satisfies the requirements of Article 33(2)-(4) PCT. Since claims 2-23 are dependent on claim 1, these likewise satisfy the requirements of the PCT with respect to novelty, inventive step and industrial applicability.
2. The description should have been brought into line with the claims to meet the requirements of Rule 5.1(a)(iii) PCT.